

Texas Court Strikes Down Transgendered Marriage

A Texas court Thursday voided the marriage of a man to his transgender widow, upholding a previous ruling that gender is determined at birth and cannot be changed—even with surgical procedures.

Firefighter Thomas Araguz died tragically last July while fighting a fire. He was married to Nikki Araguz, who was born as a man. The deceased's mother, Simona Longoria, filed suit to have the marriage declared void so that Thomas' estate would be split between his two children from another marriage.

"A person's sex is a biological fact, not a state of mind, and altering one's outer appearance doesn't change that," says Austin R. Nimocks, senior legal counsel for the Alliance Defense Fund—which helped fund the case "The court was right to uphold marriage by affirming the reality that a person's sex cannot be changed."

District Court of Wharton County Judge Randy Clapp ruled their marriage invalid because the state of Texas does not recognize same-sex marriages. The state has concluded the widow's gender using chromosomes and is not considering the sex change operation a factor.

"The district court adopted the position which was wisely written and handed down by the Texas Court of Appeals," lead counsel Chad Ellis says. "In answering the question, 'can a physician change the gender of a person with a scalpel, drugs and counseling, or is a person's gender immutably fixed by our Creator at birth?' the appeals court determined that gender is fixed, saying, 'There are some things we cannot will into being. They just are.'"

The couple filed for a marriage license in August 2008 and

Nikki-born Justin Purdue—had surgery to remove male genitalia a few weeks later.

Longoria insists her son did not know about his wife's sex change and that she only found out two months before his tragic death. Araguz, who started taking female hormones at 18, claims that her husband was aware and very supportive. According to , the widow plans to appeal the case.

"Both myself and my family are grateful for the outpouring of understanding, kindness, sympathy and support over the past year," Araguz said in a statement. "I am totally devastated by the court ruling. At this time I have no comment for the media, but will be issuing a statement shortly after I consider my options."